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10/705,403	11/10/2003	Satoshi Mizutani	20050/0200484-US0	4411

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EXAMINER

REICHLER, KARIN M

ART UNIT	PAPER NUMBER
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3761

MAIL DATE	DELIVERY MODE
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08/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/705,403

Applicant(s)

MIZUTANI ET AL.

Examiner

Karin M. Reichle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-7,9-14 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-7,9-14 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The substitute specification filed 5-23-07 does not comply with 37 CFR 1.121. For example, the marked up copy of the Summary of the Invention section of the specification does not show the text of each paragraph of the 3-14-06 substitute specification amended to arrive at the paragraphs of the 11-13-06 substitute specification, i.e. the paragraphs shown amended are not the same as the paragraphs previously presented. For example, the second full paragraph on page 3 of the marked up copy of the 5-23-06 substitute specification is not the same as the second full paragraph on page 3 of the 3-06 substitute specification, i.e. the last portion of the paragraph was made into new paragraphs rather than cancelling such text and adding new underlined paragraphs. Furthermore, the “clean” copy is not clean, e.g. see pages 2-7 thereof. The substitute specification of 5-23-07 also presents new errors, e.g. see the sentence bridging pages 2-3 of the “clean” copy. (It is also noted that the text of the Summary was merely inserted at the beginning of the Description, i.e. without reference to the Figures nor inserted at whatever portion of the description discusses the respective implementation. See paragraph 6 *infra* also.) Therefore, see paragraphs 3-5 *infra*.

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

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For Example:

Description

3. The substitute specification including the abstract filed 11-13-06 has not been entered. Therefore see the following paragraphs.

4. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: the abstract, the first sentence, page 22, lines 13-16.

5. The disclosure is objected to because of the following informalities: The specification is still replete with informalities. For example: 1) The Summary of the Invention section, i.e. **a description of the claimed invention**, not the detailed description of the invention, regardless of length, and the invention of the claims are still not commensurate in scope, see MPEP 608.01(d). It is noted the extraneous descriptive matter in the Summary should be included in the Detailed Description instead, if not already. 2) On page 4, line 13, the numeral in parenthesis should be deleted. This also applies to page 13, lines 14, 23 and 31. 3) On page 17, line 17 from the bottom line, "3" still should be --3(A)-(B)--. 4) As also discussed infra, a main body which comprises an elongated convex area formed in the longitudinal direction of the surface sheet so that the substantial center area of the surface sheet is formed convex in the lateral direction is claimed in claim 1 on lines 21-25 and similarly claimed in claim 14. Such description only requires the surface sheet form such convex area. On lines 25-26 of claim 1 it is further described that at least an end of the convex area forms a finger insertion opening. While the

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originally filed specification at page 4, lines 6-9 described such a main body which comprises an elongated convex area formed in the longitudinal direction of the surface sheet so that the substantial center area of the surface sheet is formed convex in the lateral direction, on page 7, lines 17-page 8, line 4, and page 22, line 3-page 23, line 14 and Figures 1-4 of the originally filed specification it was described that the finger insertion opening is formed between unbonded portions of a convex area defined by the center area of the main sheet body and the sub-sheet body, i.e. not by a convex portion of surface sheet. Therefore, at the very least, the description of the convex portion and the opening defined thereby is not clear and consistent throughout the application. If the opening is part of the convex portion of the surface sheet as encompassed by the scope of the claim, where is such described in the specification (i.e. proper antecedent basis for all claimed subject matter should be set forth, see 37 CFR 1.75(d)(1) and MPEP § 608.01(o), and Applicant should also specifically point out the original support for such opening, see MPEP 714.02) but if such opening is formed between the bodies as already described, a complete, clear, consistent description of the invention should be set forth throughout the application, including the claims. The specification should be carefully reviewed and revised, as necessary, to overcome all the informalities. Applicant is thanked in advance for the continuing cooperation in placing the specification in proper form.

Appropriate correction is required.

6. The amendment filed 3-14-06 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not

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supported by the original disclosure is as follows: referring to the marked-up specification, the amendments to pages 4, 6-8, 10, 12-15.

Applicant is required to cancel the new matter in the reply to this Office Action.

The amendments on those pages remove referral to a particular embodiment, i.e. (1), A interlabial pad according to (1), (3)...according to (1) or (2), (4)...according to (3), so that the combinations described originally in the Summary are no longer described in that section in the same scope. For example, the bonding set forth in the third full paragraph of page 4 is no longer described as being in combination with the pad as set forth in the third full paragraph of page 3 but rather just “an interlabial pad”. If Applicant maintains such language the portion of the original specification which provides support for each of the combinations of the same scope as now described in a single embodiment should be set forth.

Claim Objections

7. Claims 5, 14 and 18 are objected to because of the following informalities: In claim 5, line 3, “the mini-sheet forming” should be deleted and after “opening”, --formed-- should be inserted. On the second to last line, “each”, last, should be --one--, and on the last line, “, respectively...ends” should be --at a respective one of the opposite ends--. In claim 14, line 9, should --substantially planar-shaped-- be inserted after “a”? On line 15, should --of the main body-- be inserted after “sheet” at each occurrence? In claim 18, lines 3-4, change “a surface...body” to --the mini sheet piece--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. Claims 1, 5-7, 9-14 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, in the last section it is now claimed that the bodies are not directly bonded to each other than at the side edges yet on line 29 the sides edges are claimed as being “bonded” which terminology includes indirect as well as direct bonding. Contrast this to the claim language of the second and third sections from the bottom of claim 14. Therefore, it is unclear whether the bonding of the edges is only direct or not, i.e. if so, in claim 1, line 29, before “bonded”, --directly-- should be inserted. Also, the sheets of the main body are claimed as being bonded to each other so as to enclose the absorber, see lines 4-6 of claim 1. On lines 21-26, it is claimed that the main body comprises an elongated convex area formed in the longitudinal direction of the surface sheet so that the substantial center area of the surface sheet is formed convex in the lateral direction, i.e. at a minimum only the surface sheet is required to form such convex area (Note also claim 6). On lines 25-26 it is further claimed that at least an end of the convex area forms a finger insertion opening. Therefore, it is unclear whether sheets of the body enclose the absorber or not, i.e. since the surface sheet forms the convex area and such area has one end forming an opening, the absorber would not be enclosed as claimed. With regard to claim 14, the remarks with respect to claim 1 apply to similar language in this claim.

Claim Language Interpretation

9. The claim terminology is interpreted in light of the specific definitions on page 5, lines 10-11 and the sentence bridging pages 6-7. Any other claim language not specifically defined has been interpreted in view of the usual and common meaning of such, i.e. the dictionary definition. It is noted that the terminology "bonded" without any modifying terminology includes indirect bonding or direct bonding. A product by process is recited by line 2 of claim 6, i.e. see MPEP 2113, i.e. patentability is determined based on the end product of a product by process claim, not the process. The end product of claim 6 is interpreted to include a portion of the main sheet body being bent. It is noted that the terminology "mini" in claims 5 and 18 has not been claimed with respect to any other structure, i.e. mini compared to what, and thereby is considered relative absent specific dimensions thereof. Due to the lack of clarity with regard to claim 1, the language will be interpreted to require at a minimum a main sheet body and a sub-sheet body bonded directly to each other at their longitudinal side edges and not being bonded directly anywhere else. Due to the lack of clarity with regard to the convex portion of claim 1 and similar structure in claim 14, the main sheet body will be interpreted as comprising an elongated convex formed along the longitudinal direction of the surface sheet so that a substantial center area of surface sheet at a minimum in a lateral direction is formed convex towards the body and such convex area has a finger insertion opening at least at one of the area's two ends, i.e. the sheets of the main body do not enclose the absorber.

Allowable Subject Matter

10. The claims as best understood see discussion supra patentably distinguish over the prior art. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Response to Arguments

11. Applicant's remarks have been carefully considered but are either deemed moot in that the issues discussed have not been reraised or deemed not persuasive for the reasons set forth supra.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
August 3, 2007